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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,712	04/02/2004	Dennis Piper	AFF014USPT02	1186
23403	7590	10/31/2005		
SHERRILL LAW OFFICES 4756 BANNING AVE SUITE 212 WHITE BEAR LAKE, MN 55110-3205			EXAMINER LINDSEY, RODNEY M	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TJH

Office Action Summary

Application No.

10/816,712

Applicant(s)

PIPER ET AL.

Examiner

Rodney M., Lindsey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/28/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the separate cells as set forth in claim 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: on the last line of page 17 the period "." is missing.

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Appropriate correction is required.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: basis should be provided for the separate cells as set forth in claim 19.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4, 6, 13 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 4, lines 3, 4 “each strap”, in claim 6, line 1 “the headgear”, in claim 13, line 3 “the circumferential lines of retention” and in claim 17, line 3 “each strap”, all, have no antecedent basis.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 and 6-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Gwon. With respect to claim 1 note Figure 3 and the headguard 1 with the pad at 20a, the retention element “strap 16” and the circumferential lines of retention defined by straps 16, 19 that lie in diametrically intersecting planes. With respect to claim 2 note column 3, line 21 and the elastic strap 16. With respect to claim 3 note the strap 16. With respect to claim 4 note the straps 16,

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19. With respect to claim 6 note that the line of retention defined by strap 16 would be above the occipital bone while that defined by strap 19 would be below the occipital bone as shown in Figure 3. With respect to claim 7 note the adjustability of the connects as at 40, 41 of the straps 16, 19 permitting angular adjustment as claimed. With respect to claim 8 the capacity for angular adjustment noted with respect to claim 7 also allows for circumferential shifting of the diametric points of intersection as claimed. With respect to claim 9 note Figure 3 and the headguard 1 with the pad at 20a and retention elements "straps 16, 19". With respect to claims 10 and 11 note the use of elastic material in forming the straps 16, 19 (see column 3, line 21). With respect to claim 12 note the length adjustment means as at 40, 41.

8. Claims 1, 4-9, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Morgan. With respect to claim 1 note the headguard of Figure 1 with the pad "protector 29", retention element "headstrap 15" and the diametrically intersecting circumferential lines of retention defined by headstraps 15, 16. With respect to claim 4 note that each headstrap 15, 16 extends along a line of retention and note length adjustment means "cable 25". With respect to claim 5 note Figure 1 and the proximate temple location of the diametric points of intersection of the lines of retention defined by the headstraps 15, 16. With respect to claim 6 note that the line of retention defined by strap 15 would be above the occipital bone while that defined by strap 16 would be below the occipital bone as shown in Figure 1. With respect to claim 7 note the angular adjustment afforded the straps 15, 16 by the connection at slots 23 and therefore the angular adjustment of the circumferential lines of retention. With respect to claim 8 the capacity for angular adjustment noted with respect to claim 7 also allows for circumferential shifting of the diametric points of intersection as claimed. With respect to claim 9 note the headguard of

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Figure 1 with the pad "protector 29" and retention elements "headstraps 15, 16". With respect to claim 12 note the length adjustment means "cable 25". With respect to claim 13 note Figure 1 and the proximate temple location of the diametric points of intersection of the lines of retention defined by the headstraps 15, 16.

9. Claims 1, 4, 6, 9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Mattes '054. With respect to claim 1 note the headguard shown in Figure 1 with the pad "headgear 12", retention element "strap 20" and the diametrically intersecting circumferential lines of retention defined by straps 20, 26. With respect to claim 4 note length adjustment means 24, 28. With respect to claim 6 note that the line of retention defined by strap 20 would be above the occipital bone while that defined by strap 26 would be below the occipital bone as shown in Figure 1. With respect to claim 9 note the headguard shown in Figure 1 with the pad "headgear 12" and retention elements "straps 20, 26". With respect to claim 12 note length adjustment means 24, 28.

10. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Wallman. Note the headguard or "head dress" at 10, 11 protective of a wearer's hairstyle and comprising front protective piece 10, rear protective piece 11 and pivot points as at 21.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. Claims 14-16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steffen in view of Lampe et al. '399. With respect to claims 14 and 18 Steffen shows a headguard "helmet 10" with a front protective piece 12, a rear protective piece 18, a retention element "elastic strap 22" and the front and rear protective pieces comprising a pad 50 in a pocket defined by covering 52. Steffen does not teach the use of a plurality of separate pads or specifically three separate pads in the pocket of the front protective piece. Lampe et al. teach that the use of three separate pads 6 in the front pocket of a headguard. It would have been obvious to substitute the plurality of pads 6 of Lampe et al. for the single pad 50 of Steffen to achieve the advantage enhancing the ability of the front protective piece to conform to the contour of the head. With respect to claim 15 note the use of an elastic strap 22 (see column 3, line 2 of Steffen). With respect to claim 16 note the strap 22 of Steffen. With respect to claim 19 Lampe et al. additionally teach individual pockets 8 for each pad (see Figure 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cover of Steffen with individual pockets for the pads to achieve the advantage of enhancing the retention of an individual pad in a position relative to the head to improve the fit of the headguard.

13. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steffen in view of Lampe et al. '399 as applied to claim 14 above, and further in view of Mattes '054. Steffen does not teach the use of adjustment means on the straps. Mattes '054 teach the use of adjustment means 24, 28 on straps 20, 26. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the straps 22, 24, 26, 28 of Steffen with the adjustment

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means 24, 28 of Mattes '054 to achieve the advantage of enabling length adjustment of the straps,.

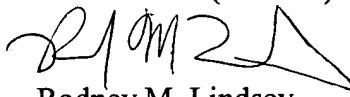
Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly, the plurality of pads of Marietta et al. and the padded headguards and retention elements of Im '090, Aaron, Howard, McCoy, Maynard, Larwood, Jr., Mattes '610, Golomb, Im '840 and Lampe et al. '760.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (571) 272-4989. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Rodney M. Lindsey
Primary Examiner
Art Unit 3765

rml